



DEFENSE LOGISTICS AGENCY
DEFENSE ENERGY SUPPORT CENTER (DESC)
Ground Fuels Division II, DESC-PLC
8725 JOHN J. KINGMAN RD, STE 2941
FT BELVOIR VA 22060-6222
FACSIMILE: (703) 767-8506 or DSN 427-8506

<http://www.desc.dla.mil>

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WEB*

SP0600-02-R-0020

SOLICITATION OF OFFERS

FOR SALE OF

FUEL OIL, RECLAIMED (FOR)

AT

Fleet and Industrial Supply Center (FISC)

PUGET SOUND, WA

Offers Closing Date: **21 March 2002**

BUYER:	PATRICIA BURKE
PHONE:	(703) 767-9503
CONTRACTING OFFICER:	KATHRYN R. RISO
PHONE:	(703) 767-9511

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SECTION A – SOLICITATION

A.1 Introduction/Description

a. The Defense Logistics Agency (DLA), Defense Energy Support Center (DESC), is soliciting written offers for the **sale** of approximately **500,000** United States Gallons (USG) of Fuel Oil, Reclaimed (FOR) located at **Fleet and Industrial Supply Center (FISC) Puget Sound, WA**.

b. The deadline for the receipt of offers is **3:00 p.m.**, local time Fort Belvoir, Virginia, USA, on **21 March 2002**. Offers should be based on the terms and conditions set forth in this solicitation.

SECTION B – PRICE

B.1 Preparation and Submission of Offers

a. The minimum offer for this product shall be for the removal of all product. An offer for less than the minimum quantity shall be considered non-responsive. Offerors should telephone the Contracting Officer at (703) 767-9511 or Buyer at (703) 767-9503, prior to the submission of an offer to clarify issues or resolve concerns regarding this sales initiative.

b. All offers are to be fully executed and must be submitted with an original signature appearing on the form provided in **EXHIBIT A – Solicitation/Contract for Sale of Product**. The Offeror shall:

(1) enter the mode of pick-up to be used;

(2) enter the unit price; and

(3) the total price in the "Total Offered Price" column. Offeror must submit the price for removal of all of the product.

c. Each Offeror shall complete and furnish **SECTION I - Certifications** along with its offer.

d. Original offers and modifications submitted by mail or hand delivered shall be enclosed in a sealed envelope and addressed to:

**ATTN: BID CUSTODIAN, DESC-CPC, RM 3729
DEFENSE ENERGY SUPPORT CENTER (DESC)
8725 JOHN J. KINGMAN RD STE 4950
FORT BELVOIR VA 22060-6220**

e. Place the name and address of the Offeror in the upper left corner and the following information in the lower left corner on the face of the envelope: **Solicitation of Offers: SP0600-02-R-0020**.

f. Offerors may submit facsimile offers under this solicitation. These responses must arrive at the place, and by the time, specified in this solicitation (see **SECTION B.3 – Facsimile Offers, Modifications, and Withdrawals**). Offerors should use the facsimile number: **(703) 767-8506**.

g. **Offers are to be entered in the space(s) provided in EXHIBIT A – Solicitation/Contract for Sale of Product. By the submission of an offer, the Offeror agrees to be bound by the terms and conditions of this solicitation.**

h. The format for this solicitation is "negotiated", which allows the Government to discuss issues regarding price, removal period, quantity, prompt payment discounts, or any other provisions of this solicitation. However, the Government may award a contract without discussions with Offerors. ***The Government reserves the right to cancel this solicitation in its entirety if offered prices are determined to be not in the best interest of the Government.*** Therefore, each initial offer should contain the Offeror's **best** terms from a cost or price standpoint.

i. In compliance with the solicitation, the Offeror agrees, if this offer is accepted within **twelve (12)** calendar days from the date specified in the solicitation for receipt of offers, to purchase all product on which offers are made at the price offered and to take delivery of the product within the removal period specified in **SECTION E - Removal of Product**.

B.2 Modification and Withdrawal of Offers

a. Offers may be withdrawn or modified by written notice or facsimile or telegram received at any time prior to the exact time specified for receipt of offers (see **SECTION B.3 – Facsimile Offers, Modifications, and Withdrawals** below).

b. Prior to the exact time specified for receipt of offers, an offer may be withdrawn in person by an Offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

B.3 Facsimile Offers, Modifications, and Withdrawals

Offers, modifications, and withdrawals submitted by facsimile will be accepted any time prior to the exact time set for the receipt of offers. Offerors should use the facsimile number: **(703) 767-8506**.

(1) Definition. "Facsimile offer/modification", as used in the solicitation, means an offer, a modification of an offer, or withdrawal of an offer that is transmitted to and received by the Government via electronic equipment that communicates and reproduces both printed and handwritten material.

(2) Facsimile offers/modifications that reject any of the terms, conditions, and provisions of this solicitation, are otherwise incomplete, or contain garbled information, may be excluded from consideration.

(3) Facsimile offers/modifications must contain the required signatures.

(4) If requested to do so by the Contracting Officer, the apparently successful Offeror agrees to promptly submit the complete original signed offer/modification.

(5) If the Offeror chooses to transmit a facsimile offer/modification, the Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile offer/modification including, but not limited to, the following:

- (a) Receipt of garbled or incomplete offer/modification.
- (b) Availability or condition of the receiving facsimile equipment.
- (c) Incompatibility between the sending and receiving equipment.
- (d) Delay in transmission or receipt of the offer/modification.
- (e) Failure of the Offeror to properly identify the offer/modification.
- (f) Illegibility of offer/modification.
- (g) Security of the data contained in the offer/modification.

B.4 Late Submissions, Modifications, and Withdrawals of Offers

a. Any offer received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 10th of the month must have been mailed by the 5th); or

(2) Was sent by mail and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) Was sent by US Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term working days excludes weekends and US Federal holidays; or

(4) Is the only offer received.

b. Any modification or withdrawal of an offer, except a modification resulting in the Contracting Officer's request for a "final proposal revision", is subject to the same conditions as in Subparagraphs a.(1), (2), and (3) above.

c. A modification resulting from the Contracting Officer's request for final proposal revision received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

d. The only acceptable evidence to establish the date of mailing of a late offer or modification sent either by registered or certified mail is the US or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the US or Canadian Postal Service. Both postmarks must show a legible date or the offer or modification shall be processed as if mailed late. Postmark means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by

employees of the US or Canadian Postal Service on the date of mailing. Therefore, Offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

e. The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

f. The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the US Postal Service. "Postmark" has the same meaning as defined in Paragraph d. above, excluding postmarks of the Canadian Postal Service. Therefore, Offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

g. Notwithstanding Paragraph a. above, a late modification of an otherwise successful offer that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

h. Offers may be modified or withdrawn by written notice, facsimile or telegram received at any time before award (see **SECTION B.3 – Facsimile Offers, Modifications, and Withdrawals**).

i. Prior to award, an offer may be withdrawn in person by an Offeror or the offeror's authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

B.5 Consideration of Offers

a. The Government will award a contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be most advantageous to the Government, cost or price, and other factors considered.

b. The Government reserves the right to reject any or all offers, to waive any informalities and minor irregularities in an offer, and unless otherwise specified by the Offeror, to accept any one item or group of items in an offer, as may be in the best interest of the Government.

c. The Government may award a contract on the basis of initial offers received, without discussions. Accordingly, each initial offer should be submitted on the most favorable terms, which the Offeror can submit to the Government. However, the Government reserves the right to conduct discussions if it is later determined by the Contracting Officer to be necessary.

d. The Government reserves the right to award a quantity less than the quantity offered, at the unit price offered, unless the Offeror specifies otherwise in the offer.

e. When the offer(s) has/have been received and evaluated for product listed in the solicitation, the Government reserves the right, at its discretion, to open discussions on terms and conditions and subsequent to those discussions, to request final proposal revisions from those Offerors who have submitted responsive offers. In the event the Government requests final proposal revisions, a date and time for receipt of such offers will be set forth in the request. Any final proposal revisions received after the time and date specified for the receipt of final proposal revisions will not be considered unless they are received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

f. An Offeror may be determined to be non-responsible and therefore ineligible for award if there is a record of poor payment (e.g. checks returned for insufficient funds) or poor performance (failure to pay or remove product in a timely fashion).

B.6 Contract Award

A written award or acceptance of offer mailed or otherwise furnished to the successful Offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer) whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the Government.

SECTION C – INSPECTION

C.1 Inspection

a. All fuel supplied by the Government shall meet or exceed specifications contained in MIL-F-24951B (SA). Specifications are included at **EXHIBIT B – Specification MIL-F-24951B (SA), 10 Feb 95**.

b. Notwithstanding Paragraph a. above, the product is sold on an "AS-IS" basis. Therefore, Offeror is **invited and urged** to inspect the product to be sold prior to submitting an offer. Specification tolerances for water and other materials shall be viewed with respect to the entire offered quantity and not a discrete segment offloaded.

c. The prospective Offeror, or its designee, may at its own cost and expense, take samples not to exceed five (5) gallons. The Government does not warrant any samples of this product to be representative of the entire quantity being offered under this solicitation.

d. Inspection of the product can be arranged by calling **Mr Donald J. Tailleux**, Chemist, at **(360) 476-3724** extension **241**, however, an appointment to inspect/test the product must be made with the individual identified in paragraph e. that will act as or arrange escorts.

e. Any requests should include the name and title of each individual wishing to examine the product. The Government reserves the right to limit the number of individuals seeking access to the FISC Puget Sound, WA. Prospective Offerors will be notified by telephone of the time the product will be available for inspection at the FISC Puget Sound, WA. Requests for an appointment to inspect the product must be made to:

MR DONALD J. TAILLEUX, CHEMIST
FISC PUGET SOUND
7501 BEACH DR
PORT ORCHARD WA 98366

Facsimile Number: (360) 476-8305
Telephone Number (360) 476-3724 extension 241
E-Mail: donald_j_tailleur@puget.fisc.navy.mil

REQUESTS SHOULD BE MADE AS SOON AS POSSIBLE UPON AWARD OF CONTRACT.

f. Prospective Offerors, their agents, and employees shall at all times comply with applicable rules and regulations in existence at FISC Puget Sound, WA.

C.2 Condition of Product

a. All product listed herein is offered for sale "**AS-IS**". "AS-IS" means the Government makes no warranty, express or implied, as to quantity, kind, character, quality, weight, size, or description of any of the product, or its fitness for any use or purpose. Specification tolerances for water and other materials shall be viewed with respect to the entire offered quantity and not a discrete segment offloaded. The product will be sold in United States Gallons (USG).

b. The description of the product is based on the best information available to the Government.

SECTION D – PAYMENT

D.1 Payment

a. The Offeror agrees to pay for product awarded at the price or prices quoted in this offer. Payments shall be made in US dollars and shall be paid to the **FISC PUGET SOUND, BREMERTON, WA** Line of Accounting: **97X4930.NC1A 007 ----- 0 00406 3C 100525 PUGRECLAIM1B**. Payment of amounts due under the contract shall be made by company check, certified check, cashier's check, or bank check made payable to **DFAS DSSN #5245**. All checks must be drawn on a US domestic bank. Foreign checks will not be accepted. **A service charge of \$50.00 will be applied to all returned checks.**

b. Payments shall be accompanied by identifying information including the contract number and a copy of the DD 250 / DD 250-1 (Inspection and Receiving Report).

c. Payments shall be accompanied by identifying information including the contract number and a copy of the DD 250 / DD 250-1 (Inspection and Receiving Report), verifying quantity actually lifted.

D.2 Payment Due Date

The Purchaser shall pay for the product within **ten (10) calendar days** after the Government transfers title to the Purchaser.

D.3 Title

Title to the product, and risk of loss thereof, shall pass from the Government to the Purchaser at the point the product passes into the Purchaser's barge or conveyance at the pick-up location designated in **EXHIBIT A – Solicitation/Contract for Sale of Product**.

D.4 Payment Address

FISC PUGET SOUND
ATTN: [Code 52] DFAS-DSSN #5245
ACCOUNT NAME: DBOF NCWF
467 W. STREET
BREMERTON, WA 98314

D.5 Interest

- a. Notwithstanding any other clause of this contract, all amounts that become payable by the Offeror to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. Simple interest shall be paid at the rate, fixed by the Secretary of the Treasury as provided in 41 USC. Section 611, which is applicable to the period in which the amount becomes due and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until the amount due is paid in full.
- b. Amounts shall be due at the earliest of the following dates:
- (1) **Ten (10) calendar days** after the Government transfers title to the Purchaser.
 - (2) The date specified under **SECTION E - Removal of Product**, Paragraph **b.**, if the Purchaser fails to remove the product within the contract removal period.
 - (3) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
 - (4) The date the Government transmits to the Offeror a proposed settlement agreement to confirm completed negotiations establishing the amount of debt.

D.6 Letter of Credit

- a. Within two (2) business days of receipt of award the Purchaser must provide the Contracting Officer an "Irrevocable Standby Letter of Credit" established in favor of the FISC PUGET SOUND – DFAS DSSN #5245, and equal to **75%** of the contract award ("contract award" being the estimated quantity 500,000 USG multiplied by the award price) and containing the provisions set out in **EXHIBIT D – Sample – Irrevocable Standby Letter of Credit**. The Letter of Credit must be issued by a depository institution located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The original of the Letter of Credit must be sent to the Contracting Officer at the address specified on the cover page of this solicitation. Failure to provide the Letter of Credit may constitute grounds for termination of the contract(s) for cause.
- b. The Letter of Credit must be an "Irrevocable Standby Letter of Credit," and **MUST NOT VARY IN SUBSTANCE** from the sample in **EXHIBIT D**. If the Letter of Credit contains any provisions at variance with **EXHIBIT D**, or fails to include any provisions contained in **EXHIBIT D**, nonconforming provisions must be deleted and any missing provisions must be added or the Letter of Credit will not be accepted. The Letter of Credit must be effective on or before the date of first pick-up under the contract, and remain in effect for the entire contract period, must permit multiple partial drawings, and must contain the contract number. The issuing bank must provide documentation indicating that the person signing the Letter of Credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.
- c. All wire deposit and Letter of Credit costs will be borne by the Purchaser.
- d. Within 30 calendar days after the final payment under the contract, the Contracting Officer shall authorize the cancellation of the Letter of Credit and shall return it to the bank or financial institution issuing the Letter of Credit. A copy of the notice of cancellation will be provided to the Purchaser.

D.7 Cashier's Check (Optional)

In lieu of providing a Letter of Credit under **SECTION D.6** above, the Purchaser may agree to pay for all product by means of a certified or cashier's check issued by a depository institution located in and authorized to do business in any state of the United States or the District of Columbia. Prior to removing product, the Purchaser must provide a certified or cashier's check payable to "**Defense Finance and Accounting Service – DSSN #5245**" for an amount equal to the quantity of product stated in the order multiplied by the adjusted price in effect on the date of the product pick-up. The certified or cashier's check must be received by the individual designated in the Order at or before the time and the place of the product pick-up. Any quantity discrepancies between ordered and received amounts for product will be credited to or charged to the purchaser in the following month.

SECTION E – REMOVAL OF PRODUCT

- a. The removal period for the product at FISC Puget Sound, WA, Storage Tank 18, shall be **completed not later than 30 April 2002**.
- b. The product purchased hereunder shall be removed from the appropriate storage facility within the time specified in Paragraph **a.** above, and after notice of acceptance of Offeror's offer by the Government. If the Purchaser fails to remove the product on or before the last day of the contract removal period through no fault of the Government, an invoice for all product remaining in storage on the last day of the contract removal period will be issued by the Government to the Offeror.
- c. The storage tank loading rate for tank 18 is approximately 1,200 barrels per hour
- d. **FISC Puget Sound will pump the product until the pump breaks suction, which is at approximately 18-inches from the bottom of the tank.**

SECTION F – SHIPPING

F.1 Outloading

a. The product is sold on an "AS-IS" basis. Delivery is f.o.b. carrier's conveyance. The Purchaser shall furnish the Government complete shipping and document distribution instructions and the necessary commercial bills of lading to accomplish shipment. These documents shall be furnished **within three (3)-business days after contract award**. Shipping instructions shall include, but not be limited to, the following:

- (1) Quantity of product to be released.
- (2) Designation of type and kind of conveyance.
- (3) Name of carrier and the name of an individual who will serve as a contact for the carrier (please include a phone number where this contact can be reached).
- (4) "Ship to" location.
- (5) Minimum load per conveyance (optional).
- (6) Desired shipping schedule.
- (7) Warning labels; as required by Federal, State, or local health, environmental, or transportation agencies.
- (8) Any additional pertinent information.

The shipping schedule furnished by the Purchaser shall be coordinated with **Mr Ken Avery within three (3)-business days after contract award** due to existing loading facilities and other commitments at the Government's storage location. Information regarding Government commitments at the storage location involved may be obtained from the address specified in Paragraph **c.** below. When applicable, instructions furnished shall also include the name of Purchaser's duly authorized agent who, as such, may furnish the above shipping instructions.

- b. The Purchaser, its agent and employees shall at all times comply with all applicable rules and regulations existing at the **FISC Puget Sound, WA** and comply with all appropriate Federal, State and Local load limitations and any safety, health, and environmental requirements.
- c. The Purchaser is solely responsible for ensuring that the proper fittings and transport equipment is provided for off loading. The government will not be held responsible for delays caused by improper off loading equipment. Shipping instructions and information requested in Paragraph **a.** above are to be furnished to the following address:

**Mr. Bob Cairns
FISC PUGET SOUND
7501 BEACH DR
MANCHESTER, WA 98353**

**Facsimile Number: (360) 476-8305
Telephone Number (360) 476-5737 extension 225
E-Mail: Robert_v_cairns@puget.fisc.navy.mil**

d. Offloading and pick-up(s) at FISC Puget Sound shall be completed **not later than 30 April 2002**. The FOR will be issued from FISC Puget Sound, WA at Storage Tank 18, FOB-Orign by Purchaser's Barge, at the **Fuel Pier**, located at Orchard Point, Puget Sound (near the entrance to Rich Passage). Pier information: Mean Low-Low Tide is 43 feet draft in the near shore area. Maximum draft size of vessel is 43 feet. US Flag or Foreign Vessels allowed. Any Foreign Vessel needs to clear US Customs. Offloading will be performed to the extent that loading facilities and other commitments will permit.

e. The Government reserves the right to schedule and coordinate the offloading of product.

f. The product is sold subject to quantity determination as described in **SECTION F.2 – Quantity Determination**.

g. DESC should be contacted in emergencies for assistance during the off load by calling:

Operations Center, Contingency Plans and Operations Division (DESC-DL) Telephone: (703) 767-8420.

h. **The Government shall be afforded the opportunity to inspect the transport conveyance before and after offloading of the product. Furthermore, the Government shall be afforded an opportunity to retain a sample of the product dispensed into the transport conveyance. The Purchaser should report any unforeseen problems to the DESC Operations Center, Contingency Plans and Operations Division immediately, see Paragraph g. above.**

F.2 Quantity Determination

The quantity of product purchased under this contract shall be determined as follows:

a. FISC Puget Sound, WA Fuel Department meters tank (barge) gauge and/or the strapping charts on tank 18 shall be used to determine the actual amounts of fuel issued.

b. The Purchaser has the right to have a representative present to witness the delivery and measurement of quantity.

c. Volume Correction: All product volume will be corrected to 60 degrees Fahrenheit as detailed in Paragraph f. below.

d. Measurement Standards: All measurements and calibrations made to determine quantity shall be in accordance with the most recent edition of the American Petroleum Institute (API) Manual of the Petroleum Measurement Standards. Certified capacity tables shall mean capacity tables prepared by an independent inspector or an independent surveyor. In addition, the following specific standards will be used as applicable:

(1) API Manual of Petroleum Measurement Standards Chapter 7, Method of Measuring the Temperature of Petroleum Products (API 2543/ASTM D 1086).

(2) API Manual of Petroleum Measurement Standards Chapter 9, Section 1, Density Determination (ASTM 1298).

(3) API Manual of Petroleum Measurement Standards Chapter 3, Method of Gauging Petroleum Products (API 2545/ASTM D 1085).

(4) API Manual of Petroleum Measurement Standards Chapter 11.1, Volume Correction Factors (API 2540/ASTM D 1250/IP 200). Either the printed version or the computer subroutine version of the standard may be used. For motor gasoline use Volume II, Tables 5B and 6B (or Volume VIII, Tables 53B and 54B). If the original measurement is by weight, using calibrated scales, then Volume XI, Table 8, shall be used to convert pounds to US gallons at 60 degrees Fahrenheit.

(5) API Manual of Petroleum Measurement Standards Chapter 4, Proving Systems. All meters used in determining product volume shall be calibrated using this standard with the frequency required by local regulation (foreign or domestic). If no local regulation exists, then the frequency of calibration shall be that recommended by the meter manufacturer or every 6 months, whichever is more frequent.

e. Units of Measure: Depending upon the unit shown in **EXHIBIT A – Solicitation/Contract for Sale of Product**, the unit of quantity, as used in this contract, shall be:

- (1) The barrel of 42 USG;
- (2) The USG of 231 cubic inches;
- (3) The long ton of 2,240 pounds;
- (4) The pound of 16 ounces.

Unless otherwise specified in the contract, the reference to gallons shall mean US gallons (USG).

F.3 VARIATION IN QUANTITY

a. A variation in the quantity of fuel sold by this contract may apply when caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

b. The permissible variation shall be limited to --

10 Percent increase

10 Percent decrease

This increase or decrease shall apply to the total lift quantity.

F.4 Insurance Requirements

The Purchaser agrees to procure and maintain, and require any subcontractor to procure and maintain, during the term of this contract, or any extension thereof, adequate motor vehicle and general public liability and property damage insurance covering all duties and work to be performed under this contract, insuring against any third party claim for bodily injury or property damage, and Workman's Compensation and Employer's Liability Insurance and other legally required insurance for protection of employees. The motor vehicle and general public liability insurance shall provide limits of liability for bodily injury of not less than \$200,000 for each person and \$500,000 for each occurrence and property damage limits of not less than \$100,000 for each accident.

F.5 Assumption of Risk and Disclaimer of Liability

The Purchaser, its assigns or agents, assumes full responsibility for all injury or damage to persons or property occasioned by or occurring in connection with or incident to any use or possession of this product. The Government assumes no liability for any damages to the property of the Purchaser or any other person or property, or for any personal injury, illness, disability or death to the Purchaser, Purchaser's employees or any other person subject to Purchaser's control, or for any other consequential damages arising from or incident to Purchaser's control, or for any other consequential damages arising from or incident to the purchase, use, loading, processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of this item, material or substance. The Purchaser agrees to include this clause in any transportation contract for removal of the product.

F.6 Safety and Fuel Spills

a. FISC Puget Sound, WA Fuel Department and/or NAVSTA Puget Sound Port Operations will provide for fuel containment and assist in spill cleanup on base at the pick-up location designated in **EXHIBIT A – Solicitation/Contract for Sale of Product**.

b. Any fuel spills, which occur off base during shipment for the product, shall be the sole responsibility of the Purchaser.

c. The Purchaser shall adhere to all US Navy safety regulations while on US Navy Property.

F.7 Environmental Protection and Precautions of Packing Materials

a. FOR is considered to be hazardous material. The Purchaser hereby agrees to comply with all applicable federal, state, or local laws, governing the storage, handling, transportation, disposal, and disposition of product. **Material Safety Data Sheets as required by OSHA Hazard Communication Standard-29 CFR 1910.1200 are incorporated**

herein. (See EXHIBIT C - Material Safety Data Sheets). (See also 29 CFR 1910.1000, Table Z-3). It is the responsibility of the Purchaser to further communicate this information to the distributor, manufacturer, user, and/or transporter of this material as may be required by federal regulations.

b. The purchaser shall provide documentation to the Government of compliance with 40 CFR Part 279 for any FOR burned for energy recovery.

c. The transportation of hazardous material is governed by Department of Transportation (DOT) Hazardous Materials Regulations (Title 49, Code of Federal Regulations, Parts 170-189). The Purchaser, as shipper, will have the responsibility to certify to the DOT that such hazardous materials are properly classified, described, packaged, marked and labeled and are in a condition safe to transport based on the Offeror's own examination of the material.

d. The Government reserves the right to conduct reasonable inspection of the Offeror's and/or its agent's representatives, assignee's and/or vendor's transportation conveyances and/or equipment utilized to effect removal of property purchased under this offering. Such action may be accomplished prior to, during, and/or subsequent to removal of property from Government premises. The Offeror shall furnish Government employees, and/or authorized Government representatives, with access and any reasonable assistance required conducting such inspections.

e. The Offeror represents, warrants, and certifies to the United States Government that it will use and ultimately dispose of any hazardous property purchased under this Solicitation of Offers in accordance with all applicable Federal, State, Local, and International laws and regulations and in a manner safe for the public and the environment. The Government cautions that the subject item(s) have or may have one or more components, parts, constituents or ingredients that may be corrosive, reactive, ignitable or exhibit other hazardous or toxic properties.

f. HEALTH WARNING. As part of this solicitation, a specific detailed Materials Safety Data Sheet has been provided. This data provides specific toxicity and health related data for the protection of human health and the environment. Offerors should review this information carefully prior to submitting an offer. This data sheet should be reviewed carefully by all that use, handle, transport, and/or store this material. Guidance in these documents should be adhered to and communicated to all involved.

SECTION G – CONTRACT ADMINISTRATION DATA

G.1 Termination for Cause

a. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurance of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not sold, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

b. If the Government terminates the Purchaser for cause, it may subsequently resell the product for the Purchaser's account, under the terms and in the manner the Contracting Officer considers appropriate, and assess the Purchaser the difference between the contract price and the price obtained on resale as actual damages. In no event will the Purchaser be refunded any monies due to the Government obtaining a greater price on resale, nor will an accounting of money be made until resale is complete.

c. In the event that the Government does not succeed in reselling the product within 12 months, the Purchaser may be held liable for the full contract price.

G.2 Disputes

This contract is subject to the Contract Disputes Act of 1978, as amended, (41 USC 601-613) (the Act). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause of FAR 52.233-1, DISAPUTES, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of the contract, pending final resolution of any dispute arising under the contract.

G.3 Termination for the Convenience of the Government

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall only be liable for actual costs incurred by the Purchaser before the effective date of termination.

G.4 Protests

a. Protests that are filed directly with the Defense Energy Support Center and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer by obtaining written and dated acknowledgment of receipt from:

**ATTN: DENNIS STANLEY, DESC-CPB RM 4729
DEFENSE ENERGY SUPPORT CENTER (DESC)
8725 JOHN J. KINGMAN RD STE 4950
FORT BELVOIR VA 22060-6222**

b. The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

G.5 Excusable Delays

The contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

G.6 Modification

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the DESC Contracting Officer.

G.7 Officials Not to Benefit

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

G.8 Covenant Against Contingent Fees

a. The Offeror warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to add to the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

b. "Bona fide agency," as used in this Paragraph, means an established commercial or selling agency, maintained by a Purchaser for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

c. "Bona fide employee," as used in this Paragraph, means a person, employed by a Offeror and subject to the Offeror's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert

improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

d. "Contingent fee," as used in this Paragraph, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

e. "Improper influence," as used in this Paragraph, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

SECTION H – DEFINITIONS

As used throughout this solicitation, the following terms shall have the meaning set forth below:

a. The term "Contracting Officer" means a US Government person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.

b. The term "Offeror" or "Purchaser" herein means Contractor.

(This SECTION is to be completed and returned with your offer)

SECTION I – CERTIFICATIONS

I.1 Taxpayer Identification Number (TIN)

a. All offerors must submit the information required in Paragraph **c.** below to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

b. The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

c. TAXPAYER IDENTIFICATION NUMBER (TIN).

☐ TIN: _____

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

☐ Other. State basis. _____

I.2 Contingent Fee Representation and Agreement

a. Representation. The Offeror represents that, except for full-time bona fide employees working solely for the Offeror, the Offeror: (NOTE: The Offeror must check the appropriate boxes. For interpretation of the representation, including the term bona fide employee, See **SECTION G.8 – Covenant Against Contingent Fees**)

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

(2) ☐ has, ☐ has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

b. Agreement. The Offeror agrees to provide information relating to the above Representation as requested by the Contracting Officer and, when Subparagraph **a.(1)** or **a.(2)** above is answered affirmatively, to promptly submit to the Contracting Officer–

(1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or

(2) A signed statement indicating that the SF 119 was previously submitted to the same Contracting Officer, including the date and applicable solicitation or contract number, and representing that the prior SF 119 applies to this offer or quotation.

I.3 Certification Regarding Debarment, Suspension, Proposed Debarment, and other Responsibility Matters

a. (1) The Offeror certifies, to the best of its knowledge and belief, that

(a) The Offeror and/or any of its Principals–

(i) ☐ Are, ☐ are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by an Federal agency.

(ii) ☐ Have, ☐ have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting

to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(iii) ☐ Are, ☐ are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Subparagraph **a.(1)(a)(ii)** above.

(b) The Offeror ☐ has, ☐ has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, United States Code.

b. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous by reason of changed circumstances.

c. A certification that any of the items in Paragraph **a.** above exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

d. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required in Paragraph **a.** above. The knowledge and information of a Offeror is not required to exceed that which is normally processed by a prudent person in the ordinary course of business dealings.

e. The certification in Paragraph **a.** above is material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to the other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

I.4 Barge Free Time and Demurrage Charges

a. Unless the offeror indicates otherwise, free time will be unlimited.

		<u>DEMURRAGE BEYOND FREE TIME</u>		
<u>ITEM</u>	<u>FREE TIME ALLOWED</u>	<u>BARGE</u>	<u>TUG</u>	<u>OTHER</u>

b. Notwithstanding the above, the Government is entitled to at least as much free time as is allowed by the common carrier or that the Purchaser normally allows its regular commercial customers, whichever is greater. In addition, the Government will not pay more in detention rates than the actual rate charged by the common carrier or the rate the Purchaser normally charges its regular commercial customers, whichever is lower.

UNLESS PURCHASER INDICATES OTHERWISE, FREE TIME WILL BE CONSIDERED UNLIMITED.

I.5 Certification for Intended Use of Purchased Product

a. Offeror certifies that intended use of this product is: _____

b. Offeror certifies that product purchased under this solicitation will not be resold to the US Government.

(Offeror's Signature)

I.6 Certification for Letter of Credit/Cashier's Check (Optional)

Reference **SECTION D.6 – Letter of Credit** and **D.7 – Cashier's Check (Optional)**. Offeror must initial one of the following:

(a) Purchaser elects to provide a Letter of Credit in accordance with **SECTION D.6** _____ (*initial*); or

(b) Purchaser elects to pay for product by certified or cashier's check in accordance with **SECTION D.7** _____ (*initial*).

SECTION J – EXHIBITS**J.1 EXHIBIT A – Solicitation/Contract for Sale of Product****J.2 EXHIBIT B – Specification MIL-F-24951B (SA), 10 Feb 95****J.3 EXHIBIT C – Material Safety Data Sheets****J.4 EXHIBIT D – Sample – Irrevocable Standby Letter of Credit**